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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**

v. :

EFRIN RIVERA : Mag No. 06-5037

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A

I further state that I am a Special Agent of the Federal Bureau of Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.

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James Diorio, Special Agent  
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

September \_\_\_, 2006, at Trenton, New Jersey

HONORABLE TONIANNE BONGIOVANNI  
UNITED STATES MAGISTRATE JUDGE

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Signature of Judicial Officer

CONTENTS APPROVED  
UNITED STATES ATTORNEY

By: \_\_\_\_\_  
John J. Hoffman, AUSA

Date: \_\_\_\_\_

## **ATTACHMENT A**

From on or about July 31, 2006, through on or about August 3, 2006, at Asbury Park, New Jersey, in the District of New Jersey, and elsewhere, defendant

EFRIN RIVERA

did knowingly and wilfully intimidate, threaten and corruptly persuade and attempt to intimidate, threaten and corruptly persuade another person, namely VA, with intent to cause and induce VA to withhold an object from an official proceeding, and to conceal an object with intent to impair the object's integrity and availability for use in an official proceeding; to wit, a federal grand jury proceeding.

In violation of Title 18, United States Code, Sections 1512(b)(2)(A) and (b)(2)(B), and 2.

## **ATTACHMENT B**

I, James Diorio, am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have knowledge of the following facts from my own investigation and discussions with and review of reports of other law enforcement officers. Because this Affidavit is submitted for the sole purpose of establishing probable cause to support the issuance of a Complaint, I have not included each and every fact known by the Government concerning this investigation. All conversations are recounted in sum and substance.

### **A. 2003**

1. On February 27, 2003, law enforcement officers from the Monmouth County Prosecutor's Office ("MCPO") and the Asbury Park Police Department ("APPD"), including an Asbury Park Police Officer identified herein as Target 1, executed an arrest warrant for a fugitive, JT, at JT's mother's apartment in Asbury Park, New Jersey. At the scene, JT's mother reported that a watch and necklace were missing. The watch was a "Lockman" with a unique yellow band and customized diamonds, valued at over \$2,000. Several days later, JT's watch was identified at a jewelry store in Monmouth County by friends of JT, who were informed, by the manager of the store, that the watch recently had been brought to the jewelry store to have the band switched.

### **B. 2006**

#### **1. July 31, 2006**

2. On July 31, 2006, FBI Special Agents James Diorio and Robert Cooke served a subpoena on the manager of the aforementioned jewelry store, VA, for documentation related to business transactions conducted with Asbury Park Police Officers. Soon thereafter, at approximately 6:30 p.m., law enforcement officers intercepted a telephone message from VA to Target 1, during which VA told Target 1 to "give me a call."<sup>1</sup> At approximately 9:12 pm, Target 1 returned the call, and VA told Target 1 to "Come here." At approximately 10:03 p.m., law enforcement surveilled Target 1 meeting with VA inside VA's jewelry store, which closed at 9:30 p.m. Both individuals exited the store at approximately 10:20 p.m. At approximately 10:26 pm, law enforcement officers intercepted a call from RIVERA to Target 1,<sup>2</sup> during which Target 1 made plans to stop by and see RIVERA. At approximately 10:33 p.m., law enforcement officers intercepted an outgoing call from Target 1 that confirmed that Target 1 and RIVERA were meeting.

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<sup>1</sup> On July 14, 2006, law enforcement obtained a court order to intercept conversations on the cellular telephone utilized by Target 1. The quoted conversations are provided in substance and in part.

<sup>2</sup> EFRIN RIVERA has two prior felony convictions: a 1994 conviction for assault; and a 2001 conviction for contempt.

**2. August 1, 2006**

3. At approximately 1:54 pm, on August 1, 2006, law enforcement officers intercepted a call from Target 1 to RIVERA, during which RIVERA asked, "Did you do what you had to do last night, or did you do it this morning?"; Target 1 responded "Nah, I did it last night when I came in the house."

**3. August 2, 2006**

4. At approximately 2:15 p.m., on August 2, 2006, law enforcement interviewed VA, who agreed to cooperate fully with law enforcement. Thereafter, in substance and in part, VA informed law enforcement of the following:

a. About three years ago, Target 1 brought VA a unique "Lockman" watch and asked that VA replace the yellow watch band with a black watch band. VA put the watch in his display window until he could perform the replacement. Later that day, several young men came into the jewelry store and identified that watch as belonging to one of their friends. At that point, VA pulled the watch out of the cabinet, and stored it in his safe. Later that evening, another young male along with an older female, who VA assumed to be the parent of the younger male, came to the store and questioned VA about the watch. Eventually mall security responded and advised the older female to report her complaint to the police.

b. The following day, VA received a call from an individual identifying himself as an Asbury Park Police Officer, who asked if VA had the watch, and told VA to hold onto it, and that he would come to retrieve the watch. That individual never called again, nor did he or anyone else come to retrieve the watch. That same day, Target 1 called VA and stated, in substance and in part, "don't put that the watch came from me . . . tell him some 'chick' brought it in." The next day, VA received a call from Target 1 who asked VA if he still had the watch, and told VA, in substance and in part, to "keep it there." At or around the same time, Target 1 asked VA to make Target 1 a duplicate watch, which VA had made in New York, and Target 1 paid for the watch in cash. Approximately one year later, VA asked Target 1 what VA should do with the original "Lockman" watch, and Target 1 told VA, in substance and in part, to "hold onto it."

c. On July 31, 2006, while meeting with Target 1 at approximately 10:00 p.m., at VA's jewelry store (see above at ¶ 3), VA showed Target 1 the federal subpoena, and while discussing the federal subpoena and the watch, Target 1 stated to VA, in substance and in part, "you are going to tell them a chick brought it in, right?", to which VA responded "of course."

5. At approximately 3:56 pm, on August 2, 2006, law enforcement intercepted a call from VA to Target 1, during which VA informed Target 1 that "[t]hey were here again with another subpoena, specifically about a watch. . . . I got to come up with it by Friday." Target 1 said, "well that's not a problem, why don't you give it to them today." VA, said, "Cause I'm real fucking nervous." Later in the conversation, Target 1 asked, "What are they telling you?"; VA stated, "They are saying they have information on me," and Target 1 responded, "man, you know

they have nothing on you. You don't do anything." Target 1 again asked VA about the type of information the FBI is requesting. VA said, "they're not telling me shit. They're just fucking intimidating." There is a long pause in conversation, then Target 1 said, "I'm thinking, I'm thinking." The call ends shortly thereafter.

6. At approximately 4:06 pm, law enforcement intercepted a call from VA to Target 1, during which VA said, "hey, there is no way they can trace this fucking watch back to me right?"; Target 1 said, "No," and VA said, "Cause I'm gonna fucking chuck it." Target 1 said "Do me a favor." VA said "yea". Target 1 said "Um, but you told Asbury you had it." VA said "yea." Target 1 said "remember that." Soon thereafter, VA informed law enforcement that he expected a visit from Target 1. At approximately 5:45 pm, law enforcement officials intercepted a call from VA to Target 1, during which VA told Target 1: "Where are you, I'm just chucking it." Target 1 said, "Yo, hold on, let me call you back in two minutes."

7. At approximately 5:00 p.m., law enforcement established surveillance outside the jewelry store. At approximately 6:45 p.m., VA called law enforcement and informed them that a stocky Hispanic male had entered the store, approached VA, and produced a note that said: "Give me Phil's watch."<sup>3</sup> VA responded, "I can't," and, after mumbling several words, the Hispanic male departed the store. At approximately 6:46 pm, law enforcement officers intercepted a call from RIVERA to Target 1 during which RIVERA stated "Yo, he was just on the phone and he's scared to death. He's fucked up. I think he made a phone call." Target 1 said, "Think so?", RIVERA said, "Yea, yea. He's buggin out, yo. He's flipping. Yo, he's on a flip, flip mode right now. Just saw me, just shook his head like, psssw. Yea, he's on some whole different shit right now. You ain't getting that watch back." Target 1 then hung up. At approximately 8:47 pm, law enforcement officials intercepted a call from VA to Target 1, during which VA said, "You sent this guy over here with a fucking note, okay. I just got rid of the fucking thing, okay. I don't want no part of it. I want nothing to do with it, and that's it. I can't fucking do this. I don't have the watch, I got rid of it, and that's it." Target 1 said, "yo, why don't you give me a call tomorrow." VA agreed.

8. From approximately 7:00 p.m., until approximately 9:30 p.m., law enforcement surveilled Target 1 in his vehicle outside the jewelry store. Soon thereafter, law enforcement surveilled VA exit the jewelry store and head east on Route 36. Target 1, likewise, exited the parking lot and followed VA. At approximately 9:38 pm, law enforcement officials intercepted a call to Target 1 from RIVERA, which verified that they were following VA. At approximately 9:55 p.m., Target 1 was surveilled following VA into a local Shop Rite grocery store, and RIVERA was surveilled waiting out in the parking lot. At approximately 10:03 p.m., VA was surveilled leaving the Shop Rite parking lot. At approximately 10:05 p.m., VA informed law enforcement, via cellular telephone, that he was confronted by Target 1 in the Shop Rite, at which time he told Target 1 that he no longer had the watch, and Target 1 stated, in substance

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<sup>3</sup> At approximately 6:42 pm, law enforcement intercepted a call from RIVERA to Target 1, during which RIVERA stated: "Yo, where you at?", Target 1 said, "outside," RIVERA stated "I'm trying to find you," Target 1 said "I see you."

and in part, “you should have given it to me Monday night.” Target 1 also asked VA if he was wearing a “wire,” to which VA responded “no.” Target 1 was surveilled leaving the parking lot at approximately 10:23 p.m., after speaking with RIVERA in the parking lot. Law enforcement surveilled Target 1 and RIVERA staring at VA as VA departed the Shop Rite.